



SF 376 – Fees in Probate (LSB1083SV)

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Fiscal Note Version – New

Description

[Senate File 376](#) relates to court costs the clerk of probate court charges and collects in connection with probate matters. This Bill amends Iowa Code section [633.31](#) to add the following reductions to the gross estate value:

- Joint tenancy property.
- Transfers during such person’s lifetime.
- Assets payable to beneficiaries including life insurance, annuities, IRAs, retirement plans, transfer on death accounts and payable on death accounts.

Background

Current law allows for a sliding scale fee for administering probate based on the value of personal property and real estate. The probate fees generated by the clerks of court are deposited in the State General Fund. The table below shows the amounts collected and the number of estates closed for calendar years 2009 through 2014.

	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014
Number of Cases with Probate Fees	9,477	9,745	9,601	9,002	9,312	10,752
Total Amount of Probate Fees Paid	\$4,537,757	\$6,127,592	\$8,846,621	\$9,178,014	\$10,622,056	\$12,529,955
Average Fee per Case	\$479	\$629	\$921	\$1,020	\$1,141	\$1,165

Assumptions

- The amount of probate fees as well as the average fee per case has increased steadily since 2009 and will most likely continue to increase.
- Since an administrative directive in May of 2014 issued by the State Court Administrator, all clerks of court have been consistent in their calculation of gross estate valuation.
- The automated system within the Judicial Branch does not capture the details of each asset within the gross estate value.
- The gross estate value will be reduced by subtracting joint tenancy property, transfers during such person’s lifetime, and assets payable to beneficiaries, including but not limited to life insurance, annuities, individual retirement accounts, retirement plans, transfer on death accounts, and payable on death accounts. By reducing the gross estate value, the amount of fees charged based on estate value will be reduced.

Fiscal Impact

This Bill will reduce revenues to the State General Fund. However, it is not possible to determine a specific estimate of the fiscal impact without analyzing the assets involved in each of the individual estates that have been processed. The Judicial Branch has indicated that the reduction in revenue could be 50.0% (\$6.3 million) or higher.

Source

Iowa Judicial Branch

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
